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December 16, 2015

Via ECF

The Hon. Freda L. Wolfson
Clarkson S. Fisher Building and U.S. Courthouse
402 East State Street
Courtroom 5E
Trenton, New Jersey 08608

Re.: Brownstein v. Lindsay, et al.
Case No.: 3:10-cv-01581-FLW-TJB

Dear Judge Wolfson:

We represent defendants Tina Lindsay and Ethnic Technologies, LLC. We write to address Jay McDaniel's December 15, 2015 letter requesting leave to file a sur-reply (docket no. 147).

Defendants have no objection to the submission of further briefing if the Court believes it would be helpful. Defendants revisited the work for hire doctrine that they argued in their opposition to plaintiff's motion for summary judgment (Defendants' Opposition Brief, pp. 25-26 (Dkt No. 144) because Brownstein asserted the previously unheard claim that he wrote some of the unidentified programming while employed by FPCI, the predecessor to LSDI. The work for hire analysis could not have been fully developed in Defendants' Opposition Brief because plaintiff had never made this allegation previously. We expressly disclosed this reasoning in our Reply Brief, at p. 4 (Dkt. No. 146).

In addition, Mr. McDaniel mistakenly asserts that we have withheld subpoenaed records, which is incorrect. The subpoenaed records were provided to Mr. McDaniel May 4, 2011, as verified by a copy of the cover letter to Mr. McDaniel contained in our files (Exh. 1)

As to Mr. McDaniel's claim that documents were altered, he is similarly mistaken.



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We thank the Court for this opportunity to address plaintiff's counsel's letter.

Respectfully submitted,

/s/ Karen L. Williams

cc: Jay R. McDaniel, Esq.

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